

REMARKS

I. Introduction

Claims 23-28, 31, and 33-45 are pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the pending claims is respectfully requested. Applicants gratefully acknowledge Examiner's recognition that Claims 25-28 and 34-36 are allowable if rewritten into independent form. Applicants believe that the underlying independent Claims 23 and 37 are allowable as discussed below and have not modified the claims pending Examiner's review of the remarks presented.

II. Rejection of Claims 31, 32, and 38 under 35 U.S.C. § 112, second paragraph

Claims 31, 32, and 38 were rejected under 35 U.S.C. § 112, second paragraph as indefinite. Applicants have canceled claim 32 and amended claims 31, 33, and 38 to correct for proper antecedent basis without prejudice to the scope of these or the relied upon independent claims. For this reason, Applicants respectfully submit that the basis for this rejection no longer exists and the rejection should be withdrawn.

III. Rejection of Claims 23, 24, 31-33, 37-39, 42, 44, and 45 under 35 U.S.C. § 102(e)

Claims 23, 24, 31-33, 37-39, 42, 44, and 45 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,224,836 to Moisan et al. ("Moisan et al."). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). If any of the claimed elements is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). As stated in the Manual of Patent Examining Procedures (MPEP) § 706.02: "for anticipation under 35 U.S.C. 102, the

reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.”

Claims 23 and 37 specify that the hole has “a diameter of 10 μm to 1000 μm .” This diameter as described in the Specification is at most 1 mm and thus a different order of magnitude than 60-80mm cited by the Examiner as being disclosed by Moisan et al. Moisan et al. disclose a microwave-excited discharge. However, conventional or standardized waveguides are not suited for microstructure discharge as proposed in the present application. For at least this reason, Moisan et al. do not disclose all the elements of Claims 23 and 37 upon which Claims 24, 31, 33, 38-39, 42, 44, and 45 depend (Claim 32 is canceled).

Moison also does not teach a “launch structure” as recited in claims 23 and 37. Microwave-excited discharges as such are known (see “Moisan”). An advantage of microwave-excited discharges is the option of being able to produce the discharge without contacting the metal guide structures. However, in the case of microstructure discharges – that is, discharges using components made of microstructures – up to this point in time, a direct voltage to medium frequency excitation is used due to the technical simplicity. Hence, the microwave discharges are all macroscopic (at least 1 cm dimension, see e.g. “Moisan”, i.e. here no microstructure discharge is proposed), since the conventional or standardized waveguides are not suited for microstructure discharges. A simple transfer of the known device to microstructure discharges is thus not possible. For this reason, a special “launch structure” – as specified in Claims 23 and 37 – is required, by which the microwave is brought into the guide structure having the appropriate dimensions.

IV. Rejection of Claims 40, 41, and 43 under 35 U.S.C. § 103(a)

Claims 40, 41, and 43 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,224,836 to Moisan et al. (“Moisan et al.”). Applicants respectfully submit that this rejection should be withdrawn for at least the same reasons given above.

CONCLUSION

Applicants respectfully submit that all pending claims of the present application are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

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